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COMMISSION ON HUMAN RIGHTS
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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in Albania

Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1990/49

1. At its forty-sixth session, the Commission on Human Rights adopted on 6 March 1990 resolution 1990/49 entitled "Situation of human rights in Albania", the operative part of which reads as follows:

"The Commission on Human Rights,

"...

"1. Calls upon the Government of Albania to provide information on the concrete manner in which constitutional and legal measures comply with the provisions of the Universal Declaration of Human Rights and to respond to the specific allegations transmitted to it by the Commission's Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;

"2. Requests the Secretary-General:

"(a) To bring the present resolution to the attention of the Government of Albania and to invite it to provide the requested information;

"(b) To take the present resolution into account when availing himself of the invitation by the Government of Albania to visit the country;

"(c) To report to the Commission at its forty-seventh session on the results of his efforts under the present resolution;

"3. Decides to continue its consideration of the situation of human rights in Albania at its forty-seventh session."

2. In accordance with paragraph 2 (a) of Commission on Human Rights resolution 1990/49, the Secretary-General on 11 May 1990 addressed a note verbale to the Minister for Foreign Affairs of the Socialist People's Republic of Albania in which he requested, in view of his reporting responsibility under the resolution, any information that the Government might wish to provide on steps taken or envisaged in the implementation of the relevant provisions of the resolution.

3. As referred to in paragraph 2 (b) of the above-mentioned resolution 1990/49, the Secretary-General paid an official visit to Albania from 11 to 13 May 1990. During his visit, the Secretary-General raised with the Albanian authorities at the highest level a number of issues pertaining to resolution 1990/49, including several individual cases regarding which the Government subsequently provided confidential information.

4. In response to this communication, the Minister for Foreign Affairs of the Socialist People's Republic of Albania on 14 August 1990 addressed a note verbale to the Secretary-General stating that his Government was party to eight international human rights instruments and was actively considering adhering to others. In its efforts to improve domestic legislation, the Government had recently created a Ministry of Justice, re-established the Bar Association, reduced the number of offences for which the death penalty could be applied, released prisoners and rehabilitated a number of persons and taken steps to guarantee freedom of assembly and movement of citizens, including the possibility of leaving the country. The full text of the note verbale is reproduced in annex I to the present report.

5. On 11 May 1990, the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations addressed a letter to the Secretary-General transmitting as an annex excerpts from the report by the Vice-Chairman of the Council of Ministers, on behalf of the Council of Ministers, to the seventh session of the eleventh legislature of the People's Assembly on the improvement and democratization of penal legislation as well as on some organizational measures. At the request of the Chargé d'affaires, the annex to his letter was circulated as a document of the General Assembly under item 103 of the preliminary list and of the first regular session of 1990 of the Economic and Social Council under agenda item 5 (A/45/275-E/1990/74). At the request of the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations Office at Geneva the above-mentioned annex was also circulated as a document of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second session (E/CN.4/Sub.2/1990/49), and of the Commission on Human Rights at its forty-seventh session (E/CN.4/1991/68-E/CN.4/Sub.2/1990/49).

6. On 5 July 1990, the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations addressed a letter to the Secretary-General transmitting excerpts from the speech delivered by the First Secretary of the Central Committee of the Party of Labour of Albania and President of the Presidium of the People's Assembly at the eleventh Plenum of the Central Committee of the Party and requested that the text of the letter and its annex should be circulated as a document of the General Assembly under items 12, 99 and 103 of the preliminary list and of the second regular session of 1990 of the Economic and Social Council under items 6 and 7 (A/45/338-E/1990/103).

7. On 7 December 1990, the Permanent Representative of the Socialist People's Republic of Albania to the United Nations forwarded to the Secretary-General a letter that the Minister for Foreign Affairs had addressed to him transmitting a document concerning the rights and freedoms of the citizens of Albania. The text of the letter and of the document attached thereto are reproduced in annex II.

8. On 5 January 1991, the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations addressed a letter to the Secretary-General transmitting the announcement of the Albanian Telegraphic Agency on the Special Meeting of the Presidency of the Council of Ministers of the Socialist People's Republic of Albania held on 1 January 1991 and requested that it should be brought, inter alia, to the attention of the Commission on Human Rights. The full text of the letter and its attachment is reproduced in annex III.

9. Reference is also made to the report presented to the Commission on Human Rights at its forty-seventh session by the Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (E/CN.4/1991/56). The relevant paragraphs of the report reflect the reply given on 20 September 1990 by the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations Office at Geneva to a questionnaire which the Special Rapporteur had addressed to all Governments and refer to a reply from the Government dated 12 December 1990 in response to allegations transmitted by the Special Rapporteur on 5 October 1990.

Annex I

NOTE VERBALE DATED 14 AUGUST 1990 FROM THE MINISTER FOR FOREIGN AFFAIRS OF THE SOCIALIST PEOPLE'S REPUBLIC OF ALBANIA ADDRESSED TO THE SECRETARY-GENERAL

The Minister for Foreign Affairs of the Socialist People's Republic of Albania presents his compliments to the United Nations Secretary-General and, with reference to his note verbale No. G-SO-214 (61-1), dated 11 May 1990, relating to Commission on Human Rights resolution 1990/49 of 6 March 1990, entitled "Situation of human rights in Albania", has the honour to transmit the following information:

The Government of Albania has paid and continues to pay particular attention to guaranteeing and giving effect to the fundamental rights and freedoms of all citizens of the Socialist People's Republic of Albania. Albania is a party to eight of the main international legal instruments on human rights and is currently considering the possibility of acceding to other human rights instruments as well.

Albanian legislation is in keeping with the general spirit of the Universal Declaration of Human Rights and contains almost all the fundamental principles it embodies. The ever deepening process of democratization in Albania has made this legislation increasingly comprehensive, as shown by a number of recent legislative instruments which relate in particular to the protection of human rights and fundamental freedoms and include the acts on the establishment of the Ministry of Justice, the re-establishment of the Bar Association, the reduction in the number of offences for which the death penalty may be imposed, the rehabilitation of convicts, the prescription of legal proceedings, the prescription of sentences, conditional release before completion of a sentence, freedom of association and assembly and freedom to demonstrate, freedom of citizens to travel abroad, the establishment of joint ventures, the protection of foreign investments in Albania, etc.

As in the past, Albania will continue in future to co-operate with the Commission's Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The Minister for Foreign Affairs takes this opportunity to reiterate to the Secretary-General the assurances of his highest consideration.

14 August 1990

Annex II

LETTER DATED 6 DECEMBER 1990 FROM THE MINISTER FOR FOREIGN AFFAIRS OF THE SOCIALIST PEOPLE'S REPUBLIC OF ALBANIA ADDRESSED TO THE SECRETARY-GENERAL

Tirana, 6 December 1990

Sir,

With reference to the interview I had with you on 3 October 1990, at your suggestion, I have the honour to transmit information relating to the freedoms and rights of citizens in the Socialist People's Republic of Albania.

Accept, Sir, the assurances of my highest consideration.

(Signed) Reis MALILE

Minister for Foreign Affairs of the
Socialist People's Republic of Albania

On the freedoms and rights of citizens in the Socialist People's Republic of Albania

From the time of its proclamation, the Socialist People's Republic of Albania set out to pursue a policy designed to achieve such basic humanitarian objectives as the well-being and prosperity of its people and the building of a just and democratic society. It is of historic significance that the first document adopted at the first meeting of the Anti-Fascist Council of National Liberation, held on the eve of the country's liberation in October 1944, was the Declaration on the Rights of Citizens.

Naturally, Albania's first task was to achieve the rights that were essential to the dignity and personality of the individual and to political and social equality. Through the implementation of such a just policy, the people's power guaranteed employment for all, put an end to the exploitation of man by man, established equality between men and women, furthered the people's cultural and educational emancipation and improved its state of health. All citizens obtained equal political status, without distinction as to race, religion or nationality.

The Constitution and laws of Albania reflect the interests of the people as a whole. They are designed to provide better guarantees of individual rights and to serve as the legal basis for the development of all aspects of the human personality in order to defend national liberty and independence. They are in keeping with the general spirit of the Universal Declaration of Human Rights and its basic principles. Albania is a party to eight international legal human rights instruments and is currently considering the possibility of acceding to others, such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

The measures adopted to improve the political system, further to develop the national economy through the introduction of a new system of economic management, to defend and strengthen the democratic freedoms and rights of citizens and to promote co-operation with other countries are part of the natural process of gradual and uninterrupted change which characterizes Albanian society, are a reflection of the objective national desire for development, and are in keeping with current international democratic processes.

As part of this process, the People's Assembly has adopted many legislative acts during the current year whose purpose was and is to promote the further democratization of the country. These acts include:

1. The Act re-establishing the Ministry of Justice (No. 7381 of 8 May 1990)

The re-establishment of the Ministry of Justice was required as a result of the process of the democratization and improvement of national legislation and institutions. One of its main functions is to act as a central body for reviewing and improving the legislation in force. To that end, it prepares draft codes, laws and decrees, as well as enabling acts relating to the work of the judiciary; it determines their lawfulness and gives its considered opinion on draft codes, laws and enabling acts prepared by other Government bodies.

2. The Act on the Albanian Bar Association (No. 7382 of 8 May 1990)

Under this Act, the legal assistance offices and administrative departments responsible for legal services were abolished and the Bar Association was re-established in accordance with contemporary ideas. The Act provides that any jurist who meets the conditions laid down by law and who is entitled to practise as a lawyer may be a member of the Bar Association. All lawyers belong to boards approved by the Ministry of Justice. Lawyers' boards are professional legal associations and have the status of legal persons.

According to this Act, the right to be defended by a lawyer applies even at the stage of the preliminary investigation of a criminal case, from the time the accused is informed of the complaint against him.

3. The Act amending the Albanian Penal Code (No. 7380 of 8 May 1990)

As a result of the amendments to the Penal Code, the number of cases in which the death penalty applies has been considerably reduced. It now only applies to a few extremely serious crimes, such as terrorism, looting, murder and theft on a large scale or by organized groups. Minors below the age of 18 and women are never sentenced to death.

Prior to the amendments to the Penal Code, flight by a person abroad was regarded as an act of treason against the country and carried a minimum sentence of 10 years' imprisonment. The act is no longer classified as treason, but as crossing a border illegally.

As a result of amendments to the relevant provisions of the Penal Code, only acts intended to overthrow the established social and political order in Albania, including fascist propaganda and propaganda for war, are regarded as crimes of propaganda against the State. Criminal prosecution for any other form of propaganda is thus no longer covered by the provisions in question.

The Institution of Rehabilitation has been established as part of the process of improving the Penal Code. Under the relevant provisions, the following are regarded as not having been convicted: persons who, during their period of conditional release ordered by the court, have committed no other criminal offence and persons sentenced to up to six months in prison or to other lighter penalties and who, during a period of two years after completion of their sentence, have committed no other criminal act; persons sentenced to a term of between five and 10 years in prison and who have been out of prison for more than seven years, as well as persons sentenced to between 10 and 25 years in prison and who have been out of prison for more than 10 years, may, at the request of Government bodies or social organizations and on the decision of the court, be regarded as not having been convicted if they have committed no other criminal act during the period or if they have shown by their behaviour that they have reformed.

4. The Decree on meetings, assemblies and demonstrations by citizens in public places (No. 7408 of 31 July 1990)

Under this Decree, the right of citizens to freedom of association and assembly and to demonstrate in public places is recognized by constitutional law. When a meeting, assembly or demonstration is held in a public place, the organizers, which may be Government bodies, political and social organizations,

associations, etc., are required to inform the law-enforcement authorities at least three days in advance and, in exceptional cases, 24 hours in advance so that they might adopt measures to ensure that the event takes place without incident.

5. The Decree on the issuance of passports and granting of visas for travel abroad (No. 7393 of 12 June 1990)

Under this new Decree, all Albanian citizens are entitled to a passport or to an equivalent document in order to travel abroad. The passport is valid for all States. The following persons are not entitled to a passport: persons against whom legal proceedings are under way, until conclusion of the proceedings; persons who are liable for military service; and persons who, during previous visits abroad, have committed serious breaches of Albanian law or of the laws of the State to which they have travelled.

6. The Act on elections to the People's Assembly (No. 7423 of 13 November 1990)

The promulgation of this Act was an important step in the ongoing democratization of the electoral system in Albania. The Act reaffirms the democratic principles forming the basis for the right to vote and to be elected, namely, universal and equal direct suffrage and the secret ballot. In comparison with the previous Act, the current Act contains amendments that make elections far more democratic. It lays the legal foundations for electoral pluralism. It thus provides that at least two candidates have to be nominated for each constituency. The country's political and social organizations, such as the Party of Labour, the Democratic Front, the Union of Youth, the Union of Women, the League of Writers and other legally recognized associations, are declared to be separate and equal electoral bodies, thereby ensuring the more pluralistic representation of the population groups and sectors in power. Each of them is entitled to present its own candidate in each electoral constituency. The Act does not give preference to any organization: the Party of Labour no more than the Democratic Front. Any preference is decided directly by the voters in a ballot which has to be secret. It will thus be possible fully to renew the highest legislative body in Albania, the People's Assembly, in which the sovereignty of the State is vested.

Furthermore, all citizens are entitled to stand for election to the People's Assembly, provided that they have the support of at least 300 voters in their constituency.

A number of laws and enabling acts governing and improving the social and economic rights of citizens were also adopted in 1990. The promulgation of laws relating to the improvement of the economic system is of particular importance. Such laws offer prospects of fuller economic development, of placing the economic and financial system in the service of progress and of improving the population's well-being. The amendments that have been made to the various laws will promote the material interests of workers, improve their pay scales and increase their wages. Special legal acts were also adopted to allow private enterprise in various service sectors, community catering, trade, etc. During the current year, decisions have been taken to give peasants plots of land for individual farming and to allow them to keep livestock.

In the context of such measures, the following decrees have been adopted: Decree No. 7406 of 31 July 1990 on the protection of foreign investments in Albania and Decree No. 7407 of 31 July 1990 on the economic activity of enterprises in which foreign capital has a share.

The People's Assembly has decided to revise the current Constitution of Albania and to make the necessary amendments to it.

Guidelines have been issued concerning the revision of the article of the current Constitution under which the Party of Labour is considered the "sole guiding political force of the State" in order to separate the functions of the Party from those of the State.

The articles of the Constitution relating to the question of the attitude to be taken towards religion and religious institutions will also be amended.

The question of belief in God is regarded as a matter for each person's individual conscience. On the basis of the principle that Albania is a secular State and the Church is separate from the State, it follows that the people is responsible for deciding whether or not religious institutions should exist.

Ethnic minorities living in Albania have enjoyed and will continue to enjoy the same rights as all Albanian nationals. They are regarded as important elements for close relations and friendship among peoples and States. The Albanian Constitution stipulates that "any privilege or inequality as well as any act that violates the rights of national minorities shall be considered unconstitutional and punished by law".

National minorities are given guarantees of the protection and development of their culture and popular traditions, the use of and instruction in their mother tongue and their equal development in all spheres of social life.

The process of democratization will continue to deepen in Albania. The establishment and approval by the People's Assembly of a special committee to review the current Constitution and make the necessary amendments, which will shortly be adopted by the country's highest legislative body, will be followed by amendments to the codes and laws in force in Albania.

Annex III

LETTER DATED 5 JANUARY 1991 FROM THE CHARGE D'AFFAIRES OF THE PERMANENT MISSION OF THE SOCIALIST PEOPLE'S REPUBLIC OF ALBANIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

New York, 5 January 1991

Excellency,

I have the honour to transmit to you the announcement of the Albanian Telegraphic Agency on the Special Meeting of the Presidency of the Council of Ministers of the P.S.R. of Albania held on January 1st evening.

I should be grateful if you would have the text of this letter and of its annex circulated as a document of the General Assembly of United Nations under agenda items "Development and strengthening of good neighbourliness between States" and "Peaceful settlement of disputes between States", and of the Third Committee, and the Economic and Social Council, and brought to the attention of the Commission on Human Rights.

(Signed) Genc MLLOJA

Chargé d'affaires of the Permanent Mission
of the Socialist People's Republic of Albania
to the United Nations

SPECIAL MEETING OF THE PRESIDENCY OF THE COUNCIL OF MINISTERS

TIRANA, 2 January (ATA). - A special meeting of the Presidency of the Council of Ministers presided by comrade Adil Carcani was conducted on January 1st evening. This meeting, which was also attended by some members of the Government, examined the situation created recently on the Albanian-Greek border in Saranda district, which is crossed illegally by an undefined number of citizens, the majority of whom are members of the Greek minority in Albania. Among those who have crossed the border there are many persons who have long since been equipped with regular passports, but who have not yet been able to receive a visa from the Greek embassy in Tirana.

The meeting underlined that the P.S.R. of Albania has not incited and does not incite the departure of its citizens from their country, as claimed by certain circles. The Albanian Government has shown special care and attention on the equal development of the Greek minority with their Albanian brothers in Albania. It observes the international norms and the Albanian legislation guarantees the right to move abroad to every person who wishes such a thing. Hence, there is no reason to cross the border illegally.

The meeting of the Presidency of the Council of Ministers underlined that the Ministry of Foreign Affairs of the P.S.R. of Albania is in contact with the Foreign Ministry of the Hellenic Republic to avoid such an abnormal situation.

The Presidency of the Council of Ministers decided on the creation of a governmental team to examine the situation closely.